

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 15-35482-cgm

4 - - - - - x

5 In the Matter of:

6
7 LISA M JACOBS,

8
9 Debtor.

10
11 - - - - - x

12
13 U.S. Bankruptcy Court

14 355 Main Street

15 Poughkeepsie, New York

16
17 February 2, 2016

18 9:42 AM

19
20 B E F O R E :

21 HON CECELIA G. MORRIS

22 U.S. BANKRUPTCY CHIEF JUDGE

1 HEARING RE: Doc# 10 Loss Mitigation Request Pursuant to
2 General Order M455 filed by Peter M. Frank Esq. On behalf of
3 Lisa M Jacobs.

4
5 HEARING RE: Doc# 43 Motion for Contempt and Sanctions for
6 Violating Loss Mitigation Order by Order to Show Cause filed
7 by Peter M. Frank Esq. On behalf of Lisa M Jacobs with
8 hearing to be held on 2/2/2016 at 9:30 a.m. at Poughkeepsie
9 Office -- 355 Main Street.

10
11 HEARING RE: Order to Show Cause signed on 1/20/2016 with
12 hearing to be held on 2/2/2016 at 9:25 a.m. at Poughkeepsie
13 Office -- 355 Main Street (DeCicco, Vincent)

14
15
16
17
18
19
20
21
22
23
24
25 Transcribed by: Nicole Yawn

1 A P P E A R A N C E S :

2 LEGAL SERVICES OF THE HUDSON VALLEY

3 Attorney for the Debtor

4 101 Hurley Avenue

5 Suite 3

6 Kingston, NY 12401

7

8 BY: PETER M. FRANK, ESQUIRE

9

10 PARKER IBRAHIM & BERG, LLC

11 Attorney for JPMorgan Chase Bank, N.A.

12 270 Davidson Avenue

13 Somerset, NJ 08873

14

15 BY: MELINDA COLON-COX, ESQUIRE

16

17 ALSO PRESENT:

18 ALBERT SMITH, JR.

19 JPMORGAN CHASE REPRESENTATIVE

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: 15-35482, Lisa Jacobs?

MR. FRANK: Peter Frank, Legal Services of the Hudson Valley, for the debtor, Judge.

MS. COLON-COX: Good morning, Your Honor. Melinda Colon-Cox, on behalf of JPMorgan Chase Bank. And we have a representative from Chase, Albert Smith.

THE COURT: Very good.

Have you all had a chance to talk, Mr. Frank?
This is on an order to show cause.

MR. FRANK: We have had a chance to talk, but we really haven't gotten anything done.

THE COURT: Okay.

MR. FRANK: At the last appearance, Mr. Griswold (ph), from a different law firm appeared. He didn't appear today. I don't know if this is a high-ranking office of JPMorgan Chase or not, but they haven't submitted opposition.

I submitted the documents at the Court's suggestion. I submitted a completely new RMA.

THE COURT: I did. I told you to do that.

MR. FRANK: And I did that. And now, they're telling me the same story, basically, all over again. What's even more bizarre is that they're still sending out notices to me that they're changing servicers. And they

1 never withdrew the notification that they're --

2 THE COURT: Well, they're not changing the
3 servicer. You know that.

4 MS. COLON-COX: So -- may I? No, no, understood.
5 Understood, Your Honor.

6 THE COURT: Okay.

7 MS. COLON-COX: So I am new to the case. So I've
8 been trying to kind of wrap my hands around it. But there
9 was a -- it was serviced. I mean, it was scheduled to be
10 serviced at least. And that's what resulted in the notices.

11 THE COURT: You're in litigation.

12 MS. COLON-COX: Well, --

13 THE COURT: When you're here, you're in
14 litigation. You don't change a servicer.

15 MS. COLON-COX: Understood, Your Honor.

16 THE COURT: Okay.

17 MS. COLON-COX: (Indiscernible) is now working on
18 getting that back. They requested an exclusion. We
19 received confirmation this morning the loan is being
20 excluded from the servicer transfer (ph). So it's not
21 happening.

22 THE COURT: Okay.

23 MS. COLON-COX: We don't have a formal notice yet,
24 because we just got the information this morning.

25 THE COURT: Okay.

1 MS. COLON-COX: So that's the service transfer
2 issue. But then there's now this other issue whether or not
3 the debtor qualifies for a loan application under Freddie
4 Mac's campfire (ph) drawings (ph) or under a lamp (ph).

5 THE COURT: Okay.

6 MS. COLON-COX: And it still remains our position
7 -- and I know that counsel takes issue with this. But first
8 of all, Freddie Mac at this time as of, I believe, September
9 of 2015, no longer even considers hands (ph), unless it
10 specifically requests an exception. And the exception --
11 the lamp. I'm sorry.

12 The lamp is the loan assumption modification
13 program, Freddie Mac's. And what that is -- it's for
14 debtors who are not under note (ph) and who are not defined
15 as default (ph) --

16 THE COURT: Who owns this note?

17 MS. COLON-COX: Freddie Mac.

18 THE COURT: Then why isn't Freddie in here?

19 MS. COLON-COX: I don't think it was required
20 (indiscernible) --

21 THE COURT: We can make Freddie come. They're the
22 one that owned it. They're the one that owned it. We need
23 them in the courtroom. I could care less who the servicer
24 is, except you can't transfer it in the middle of
25 litigation.

1 MS. COLON-COX: Understood.

2 THE COURT: But it's against the owner of the
3 mortgage. And if the owner of the mortgage is Freddie Mac,
4 why isn't Freddie Mac in this courtroom?

5 MS. COLON-COX: I understand that, Your Honor.
6 But we have been working towards this lamp issue. Mr. Frank
7 submitted the completed loan application, if I'm not
8 mistaken, January 21st.

9 THE COURT: Okay.

10 MS. COLON-COX: And that's going to be used to
11 request the exception for Freddie Mac to review the debtor
12 for (indiscernible).

13 THE COURT: Okay. Just bring Freddie Mac in.

14 MR. FRANK: No, they should. I mean, it's been
15 six months since we had a completed application. So I --

16 THE COURT: I know that. But I want an order
17 ordering Freddie Mac in. So you get me an order. Because
18 otherwise, they're just going in and saying this Podunk
19 judge in Podunk Poughkeepsie said come in. So let's get a
20 federal court order and get them in march 1st.

21 MR. FRANK: Thank you, Your Honor.

22 THE COURT: Now, obviously, you can talk that
23 whole time. And more than likely, the order says Chase,
24 because that's who she's paying. But we now know who owns
25 it. So you've got to get service on Freddie Mac.

1 MR. FRANK: I will do that, Your Honor.

2 THE COURT: So --

3 MS. COLON-COX: And, Your Honor, just so I can
4 clarify, I know that counsel did file a motion. Your Honor
5 then entered the order to show cause. Do you still want us
6 to oppose the motion, or was that the result of the order to
7 show cause?

8 THE COURT: Well, the order to show cause -- he
9 has shown up, right?

10 MR. FRANK: I don't know who he is, but, yes,
11 someone has shown up.

12 THE COURT: Raise your right hand.

13 (Witness Sworn)

14 THE COURT: State your full name.

15 THE WITNESS: Albert Smith, Jr.

16 THE COURT: And your name again?

17 THE WITNESS: Albert Smith, Jr.

18 THE COURT: And, Mr. Smith, where do you live?

19 THE WITNESS: I live in Atlanta, Georgia.

20 THE COURT: Where?

21 THE WITNESS: Atlanta.

22 THE COURT: My town.

23 Excuse me, everyone. We speak the same language
24 here.

25 And what is your position?

1 THE WITNESS: I'm mortgage banking research
2 officer, assistant vice president with JPMorgan Chase Bank.

3 THE COURT: Do you have the authority to change
4 this law?

5 THE WITNESS: As far -- what do you mean by
6 change, Your Honor.

7 THE COURT: Do you have an authority to make
8 changes on the loan, to refinance, do whatever?

9 THE WITNESS: Well, as servicer for --

10 THE COURT: Can you answer that question?

11 THE WITNESS: I'm trying to answer it, Your Honor.
12 As servicer --

13 THE COURT: It's really a yes or no question.

14 THE WITNESS: Well, as servicer for Freddie Mac,
15 Your Honor, we have serving authority with --

16 THE COURT: But you don't have full authority?

17 Then the order to show cause is still in place.
18 So I'm leaving it open until you bring me someone with full
19 authority.

20 MS. COLON-COX: Sure.

21 THE COURT: You heard me say I wanted a senior
22 vice president that could rewrite -- I want someone that can
23 rewrite this mortgage. And if that means Freddie Mac, I'm
24 ordering Freddie Mac in.

25 MS. COLON-COX: Okay.

1 THE COURT: But if somebody at Chase has more
2 power than you do, I want them in here.

3 MS. COLON-COX: Okay. And so -- but there's no --

4 THE COURT: So the order to show cause -- well,
5 you might want to oppose it.

6 MS. COLON-COX: Okay.

7 THE COURT: Because at this moment, they are in
8 contempt. I'm not necessarily holding them in contempt.

9 MS. COLON-COX: Understood.

10 THE COURT: Because I'm giving -- truly, we're not
11 out here to hold people in contempt. We're out here for
12 people to pay attention and do what they're supposed to do.
13 And I haven't seen this as paying attention and doing what
14 you're supposed to do.

15 MS. COLON-COX: Understood, Your Honor.

16 THE COURT: And it became when they tried to
17 transfer the mortgage. That's the first red flag.

18 MR. FRANK: And on January 15th, I received
19 another notice from JPMorgan Chase. It states that the
20 mortgage is now being serviced by Bayview (ph), as of today.

21 THE COURT: Get me an order. It is not.

22 MS. COLON-COX: That's the one that's being
23 excluded, correct.

24 THE COURT: Okay. Get me an order.

25 MS. COLON-COX: We just don't have

1 (indiscernible).

2 THE COURT: There's no way.

3 MR. FRANK: Thank you, Your Honor. It's

4 (indiscernible).

5 MS. COLON-COX: Yeah, we agree.

6 THE COURT: Okay. All right.

7 Now then, I am abstaining from ruling on the order
8 to show cause that's in place, but you hear my opinion on
9 it. I've already telegraphed my opinion.

10 I want Freddie Mac in here, and I want an order.
11 And I understand that they agree. So you can put that in
12 the terms of the order that it will not be transferred.

13 MR. FRANK: Thank you, Your Honor.

14 THE COURT: All right.

15 MS. COLON-COX: Thank you, Your Honor.

16 THE COURT: See you on 3/1. And I expect you all
17 to talk. This is silliness that you don't talk constantly.

18 MS. COLON-COX: Sure. Thank you, Your Honor.

19 (Whereupon, these proceedings were concluded at 9:49
20 AM)

21

22

23

24

25

C E R T I F I C A T I O N

I, Nicole Yawn certify that the foregoing transcript is a true and accurate record of the proceedings.

Nicole
Yawn

Digitally signed by Nicole Yawn
DN: cn=Nicole Yawn, o=Veritext,
ou, email=digital@veritext.com,
c=US
Date: 2016.04.18 16:22:59 -04'00'

Nicole Yawn

Date: February 5, 2016

Veritext Legal Solutions
330 Old Country Road
Suite 300
Mineola, NY 11501